

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

AMY BLANKENSHIP,)	
)	
Plaintiff,)	Civil Action No. 3:22-cv-00809
)	
v.)	Judge Richardson
)	
NISSAN NORTH AMERICA, INC., and)	Magistrate Judge Frensley
MB OF MURFREESBORO NISSAN,)	
LLC,)	JURY DEMAND
)	
Defendants.)	

**MOTION OF DEFENDANT NISSAN NORTH
AMERICA, INC., TO DISMISS COUNTS I AND II OF THE COMPLAINT FOR
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

Pursuant to Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, Defendant NISSAN NORTH AMERICA, INC., moves to dismiss Counts I and II of Plaintiff's Complaint for failure to state a claim upon which relief can be granted. As explained more fully in the accompanying Memorandum of Law, Count I of Plaintiff's Complaint does not identify clearly the contract or warranty that NNA allegedly breached, but NNA is not a party to the only written contract attached to the Complaint and Plaintiff cannot recover for breach of implied warranty because he is not in privity of contract with NNA. Moreover, Plaintiff has not pled with particularity NNA's alleged violations of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq.*, so Count II of his Complaint is also subject to dismissal.

For these reasons, NNA respectfully requests that the Court grant its Motion; dismiss with prejudice Counts I and II of Plaintiff's Complaint; and, pursuant to Tenn. Code Ann. § 47-18-109(e)(2), award NNA its costs and attorney fees associated with seeking dismissal of Plaintiff's Tennessee Consumer Protection Act claims.

Dated the 17th day of October, 2022.

Respectfully submitted,

LEWIS THOMASON, P.C.

By: /s/ Ryan N. Clark

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Attorneys for Defendant Nissan North America, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the forgoing Motion has been served upon the counsel for the represented party in interest herein by operation of the Court's electronic case filing system and on the unrepresented party by United States Mail, first class postage prepaid:

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Attorneys for Plaintiff

Dated the 17th day of October, 2022.

/s/ Ryan N. Clark

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